

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RAMON VILLANUEVA-BAZALDUA)
individually and on behalf of other)
similarly situated,)

Civil Action No. 06-185

Plaintiff,)

v.)

TRUGREEN LIMITED PARTNERS)
and TRUGREEN, INC. d/b/a)
TRUGREEN CHEMLAWN,)

Defendant.)

**DEFENDANTS' MOTION FOR EXTENSION
OF TIME TO ANSWER, RESPOND OR OTHERWISE PLEAD**

Defendants TruGreen Limited Partners and TruGreen, Inc. d/b/a TruGreen Chemlawn (hereinafter "TruGreen") hereby move for an extension of time in which to answer, respond or otherwise plead in the above-referenced matter and state as follows:

1. Michael L. Banks, Esquire and Sarah E. Bouchard, Esquire of Morgan, Lewis & Bockius LLP, along with Michael Kelly, Esquire, of McCarter & English, LLP were retained on April 6 as defense counsel in the above matter.

2. The Complaint was filed by process server on Defendants' registered agent for service on March 21, 2006.

3. Because a response pleading is due on or before April 10, Defense counsel Sarah Bouchard called Vivian L. Rapposelli, Esquire to request an extension of time to answer, respond or otherwise plead. Ms. Rapposelli did not return the call, but Edward Tuddenham,

Esquire, who is listed on the Complaint as having an office at 916 North Union Street, Suite 2, Wilmington, Delaware 19805, spoke to Ms. Bouchard.

4. Ms. Bouchard requested a 15 day extension of time in which to answer, respond or otherwise plead. Mr. Tuddenham, who apparently does not have an office in Delaware as stated in the Complaint, but who works out of a New York office, refused Ms. Bouchard's request.

5. Mr. Tuddenham stated that he would only agree to an extension of time if Defendants would extend the statute of limitations for unnamed individuals, who are not currently parties in this action, for the same time period.

6. Ms. Bouchard asked him to reconsider his position, as this action involves only one Plaintiff. As Ms. Bouchard explained to Mr. Tuddenham, although he seeks to represent additional Plaintiffs through a collective action process at a later date, there has been no finding by the Court that this case should be certified, conditional or otherwise, as a collective action under the Federal Labor Standards Act ("FLSA"). Indeed, a plain reading of the Complaint suggests that the named Plaintiff has made allegations that are unique to him, and therefore, that he is not similarly situated to the other members of the putative collective class.

7. Mr. Tuddenham still refused to consent to a 15 day extension, thereby necessitating the instant Motion.

WHEREFORE, and due to Plaintiff's Counsel's unwillingness to cooperate in this matter, Defendants request an extension of time of 15 days in which to answer, respond or otherwise plead.

Respectfully submitted,

/s/ Michael P. Kelly

Michael P. Kelly (DE Bar ID #2295)
McCarter & English
Citizens Bank Building
919 N. Market Street, 18th Floor
Wilmington, DE 19801
(302) 984-6301

Pro Hac Application in process for:
Michael L. Banks (Pa. I.D. #35052)
Sarah E. Bouchard (Pa. I.D. #77088)
1701 Market Street
Philadelphia, PA 19103-2921
(215) 963-5387/5077

OF COUNSEL:
MORGAN, LEWIS & BOCKIUS LLP

Dated: April 7, 2006

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Michael P. Kelly, hereby certify that a true and correct copy of Defendants' Motion for Extension of Time to Answer, Respond or Otherwise Plead was served via e-file on this 7th day of April, 2006 upon the following:

Vivian L. Rapposelli, Esquire (#3204)
Rapposelli, Castro & Gonzales
Edward Tuddenham, Esquire (of counsel)
916 North Union Street, Suite 2
Wilmington, Delaware 19805

/s/ Michael P. Kelly

Michael P. Kelly